

**REMARKS**

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

**Disposition of Claims**

Claims 1-21, 23, 26-27, and 29-36 were pending in this application. By way of this reply, claim 19 has been canceled and new claims 37-48 have been added. Thus, claims 1-18, 20-21, 23, 26-27, and 29-48 are now pending in this application. Claims 1, 20, 21, 23, 29, 30, 33, 39, 40, 41, 42, 43, 44, 45, 46, 47, and 48 are independent, and the remaining claims, directly or indirectly, depend on claim 1, 21, 23, 29 or 33.

**Claim Amendments**

By way of this reply, independent claims 1, 30, and 33 have been amended to substantially incorporate the features of claim 19 and, accordingly, claim 19 has been canceled without prejudice or disclaimer. Claims 20, 21, and 23 have been amended to substantially incorporate the features of claims 32, 35, and 36. Claims 1, 2, 20, 21, 23, 30, and 33 have been amended to delete the term, "only when said recordable medium is appropriate for said data delivery system." Claims 2 and 34 have been amended to delete the term, "each of which has the same capacity." No new matter has been added in these amendments. Support for the amendments may be found, for example, in Figure 4.

Claim 29 has been amended to clarify the claimed invention. Claim 27, which depended from claim 26, has been amended to be dependent from claim 29, and conform with the

amendment to the base claim 29. No new matter has been added by way of the amendments. Support for the amendments may be found, for example, in Figure 11 and paragraph [0181] of the published application.

Claims 1, 2, 4, 5, 7, and 8 have been amended to clarify the term, "data" as "delivered data," to conform to the antecedent basis. Further, claims 10 and 13 have been amended to correct minor clerical errors. No new matter has been added by way of the amendments.

#### **Rejection(s) under 35 U.S.C. §112**

Claims 33, 34, and 36 stand rejected under 35 U.S.C. §112, second paragraph. Specifically, the Examiner asserts that claim 33 fails to point out the transitional phrase, and dependent claims 34 and 36 are rejected for the same reasons. Although Applicant does not necessarily agree, by way of this reply, the claim 33 has been amended to clarify the language of the claim. Accordingly, withdrawal of the rejection is respectfully requested.

#### **Rejection(s) under 35 U.S.C. §102**

##### *Regarding Japanese Patent Application Publication No. H8-77263*

Claims 1, 2, 6, 14, 17, 18, 20-21, and 23 stand rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent Application Publication No. H8-77263 ("Fujitsu"). As discussed above, independent claims 1, 20, 21, and 23 have been amended to clarify the claimed

invention. To the extent that this rejection may still apply to amended claims 1, 20, 21, and 23, the rejection is respectfully traversed for the reasons set forth below.

As noted previously, one or more embodiments of the claimed invention are directed to a data delivery system, in which a server delivers data to a writer unit through a network and the writer unit writes the data to a recordable medium. Particularly, the recordable medium applied to the system includes a plurality of writable storage areas, in each of which data can be written. Further, the data delivery system is constructed so that the writer unit can write data only once in each writable storage area, where data has not been previously written. Due to this feature, the data delivery system prevents the situation in which new data is written over old data in the same storage area of the recordable medium.

Accordingly, claim 1, as amended, requires, in part, “wherein said writer unit writes said data *only once in each writable storage area, where data has not been written*, of said recordable medium.”

Further, in one or more embodiments of the claimed invention, referring to the specification as an example, the OTPROM 17 as a recordable medium includes (1) blank areas (a1) to (ak) (k is a natural number) and (2) an initially written area (aw) in advance of usage. The blank areas (a1-ak) are inherently different from the initially written area (aw). For example, one or more embodiments, the blank areas (a1- ak) are areas in which no data is written yet before the user purchases the OTPROM 17 (before shipment from a factory). In the initially written area (aw), a system program, common data, the identification information (ID) of the memory cartridge 13, and the number of music pieces which can be written thereto are already written before the user purchases the OTPROM 17 (before shipment). The system program is a program for system

initialization, sequential control, image display control, A/D conversion, voice processing, and/or music playback control, for example. Due to this feature of the recordable medium including two different types of areas, a service provider of the system may build a unique business style for selling such a recordable media with a high security and convenience.

Accordingly, claim 1 requires, in part, the feature "*wherein said writer unit writes said data (1) only once in each writable storage area, where data has not been written, of said recordable medium,*" together with "*wherein data and/or computer program (2) for use in processing data (3) that is delivered and written to said recordable medium is initially written to said recordable medium.*" Note that, therefore, in the claim, the data (1) only once written, the data and/or computer program (2) initially written, and the data (3) delivered and written are inherently different from each other.

In contrast, Fujitsu shows a medium including a software and information for setting the number of time the software is allowed to use. However, the medium shown in Fujitsu does not include at least the features of "*writable storage area, in each of which data only once written,*" "*data and/or computer program for use in processing the data,*" and "*data delivered and written to the medium*" as required by the claimed invention.

Accordingly, independent claim 1, as amended, is patentable over Fujitsu, because the reference fails to show or suggest all of the limitations recited in the claim.

Independent claims 20, 21, and 23, as amended, require, "*data is written only once in a writable storage area, where data has not been written, of a storage space of said recordable medium,*" and "*the storage areas is consumed in accordance with a value of a content corresponding the data when said writer unit writes the data to said recordable medium.*" Thus, due

to these features, in the claimed invention, the criterion regarding, whether data may be written into the medium or not, is necessarily dependent on “a *value of a content* corresponding the data” (for example, whether a writable space is left or not). As a result, the claimed invention can achieve a high security to prevent forgery and the like without complicated security data communication, for example, between a user and a service provider.

In contrast, as noted above, Fujitsu shows a medium including a software and information for setting the number of time the software is allowed to use. However, the medium shown in Fujitsu does not include at least the features, “data is *written only once in a writable storage area, where data has not been written*, of a storage space of said recordable medium,” and “*the storage areas is consumed in accordance with a value of a content* corresponding the data when said writer unit writes the data to said recordable medium,” as required by the claimed invention.

Accordingly, independent claims 20, 21, and 23, as amended, are patentable over Fujitsu, because the reference fails to show or suggest the above features as required by the claimed invention.

Regarding U.S. Patent Application Publication No. 2003/0041123

Claims 1, 6, 9, 12, 14, 18-21, 23, 30, and 33 stand rejected under 35 U.S.C. 102(c) as being anticipated by U.S. Patent Application Publication No. 2003/0041123 (“Sato”). As discussed above, by way of this reply, claim 19 has been canceled. Thus, with regard to claim 19, the rejection is now moot. Regarding claims 1, 6, 9, 12, 14, 18, 20-21, 23, 30, and 33, independent claims 1, 20, 21, and 23 have been amended to clarify the claimed invention. To the extent that this

rejection may still apply to amended claims 1, 20, 21, 23, 30, and 33, the rejection is respectfully traversed for the reasons set forth below.

As discussed above, independent claim 1, as amended, requires, in part, the feature *“wherein said writer unit writes said data (1) only once in each writable storage area, where data has not been written, of said recordable medium,”* together with *“wherein data and/or computer program (2) for use in processing data (3) that is delivered and written to said recordable medium is initially written to said recordable medium.”* Note that, therefore, in the claim, the data (1) only once written, the data and/or computer programs (2) initially written, and the data (3) delivered and written are inherently different from each other.

Due to the above features, in the claimed invention, the criterion regarding, whether data may be written into the medium or not, is necessarily dependent on whether writable space is left or not. Further, due to the criteria combined with the feature enabling data to be only once written in the same storage area, the claimed invention can achieve a high security to prevent forgery and the like without complicated security data communication, for example, between a user and a service provider.

In contrast, Sato shows a blank medium including an ID data related to payment information for use of the medium. However, Sato fails to show or suggest the above features, as required by the claimed invention. The system shown in Sato does not apply any criteria regarding whether data may be written into the medium or not is necessarily dependent on whether writable space is left or not, as does the claimed invention. Instead, Sato actually employs logic for security data communication between a user and a service provider, which is inherently different from the security principle of the claimed invention.

Accordingly, independent claim 1, as amended, is patentable over Sato, because the reference fails to show or suggest all of the limitations recited in the claim. Independent claims 30 and 33 include substantially similar limitations to that of claim 1. Thus, claims 30 and 33 are also patentable over Sato at least for the same reason set forth above.

Further, as discussed above, independent claims 20, 21, and 23, as amended, requires, “data is *written only once in a writable storage area, where data has not been written*, of a storage space of said recordable medium,” and “*the storage areas is consumed in accordance with a value of a content* corresponding the data when said writer unit writes the data to said recordable medium.” Thus, due to these features, in the claimed invention, the criterion regarding, whether data may be written into the medium or not, is necessarily dependent on “a *value of a content* corresponding the data” (for example, whether writable space is left or not). As a result, the claimed invention can achieve a high security to prevent forgery and the like without a complicated security data communication, for example, between a user and a service provider.

Sato also fails to show or suggest at least the above features, as required by claims 20, 21, and 23. The system shown in Sato does not apply regarding criteria about whether data may be written into the medium or not is necessarily dependent on whether a writable space is left or not, as does the claimed invention. Instead, Sato actually employs logic for security data communication between a user and a service provider, which is inherently different from the security principle of the claimed invention.

Accordingly, independent claims 20, 21, and 23, as amended, are patentable over Sato, because the reference fails to show or suggest the above features as required by the claimed invention.

In view of the above, Fujitsu and Sato, whether considered separately or in combination, fail to teach or suggest all of the limitations of amended claims 1, 20, 21, 23, 30, and 33. Thus, claims 1, 20, 21, 23, 30, and 33, as amended, are patentable over Fujitsu and Sato. By virtue of its dependence, claims 2, 6, 14, 17, 18 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

### **Rejection(s) under 35 U.S.C. §103**

Claims 2-5, 7-8, 10-11, 13, 15-17, 26-27, 29, 31-32, and 34-36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sato in view of U.S. Patent No. 6,031,815 ("Heemskerk"), U.S. Patent No. 6,144,992 ("Turpin"), U.S. Patent Application Publication No. 2005/0196129 ("Kobayashi"), U.S. Patent Application Publication No. 2004/0199687 ("Hsu"), U.S. Patent Application Publication No. 2004/0133550 ("Okamura"), U.S. Patent No. 6,587,403 ("Keller"), U.S. Patent Application Publication No. 2004/0111250 ("Hensley"), "DiscJuggler User's Guide" (January 24, 2003), U.S. Patent No. 5,886,275 ("Kato"), U.S. Patent Application Publication No. 2004/0210646 ("Sushima"), or U.S. Patent No. 7,206,821 ("Moritomo").

As discussed above, independent claims 1, 20, 21, 23, 30, and 33, as amended, are patentable over Sato.

Also, independent claim 29 has been amended to clarify the claimed invention. Amended claim 29 includes the limitations of "*a memory cartridge having a proprietary interface for accessing data contained therein,*" "*a content using system which is distributed to a user of said content and provided with a first proprietary connector compatible with and connectable to said proprietary interface of said memory cartridge for reading content therefrom and using the content,*"



“a content server connected to a network and providing a content delivery service on the network,” and “a writer having a facility for receiving content from said content server through the network, provided with a second proprietary connector compatible with and connectable to said proprietary interface, and configured to write the content to said memory cartridge,” and “*wherein said writer writes the content only once in a writable storage area of said memory cartridge where data has not been written, only when said memory cartridge is appropriate for said content delivery system.*”

Applicant respectfully notes that the above features of the claimed invention substantially require providing the memory cartridge with a specific proprietary interface with respect to which the connectors of the content using system and the writer are compatible and physically and electrically connectable.

In contrast, Sato shows a communication system including a website server, an optical disc, *etc.* However, Sato fails to teach or suggest at least the following limitations as required by the claimed invention.

Firstly, the claimed invention requires “a memory cartridge having a proprietary interface for accessing data contained therein.” Contrastly, in the system shown in Sato, no data storage medium, such an optical disc, includes any interface for accessing data contained therein. Applicant respectfully notes that the I/O interface 67 shown in Sato is provided as a part of a user terminal, but not a part of any data storage medium. Therefore, Sato fails to show or suggest a memory cartridge as required by the claimed invention.

Secondly, the claimed invention requires “a writer writes the content only once in a writable storage area of said memory cartridge where data has not been written, *only when said memory cartridge is appropriate for said content delivery system.*” In other words, the claimed

invention, writing to the memory storage is permitted only when memory cartridge as hardware is appropriate. In contrast, in the system of Sato, recording process may be performed merely depending on data structure as software in a storage medium such as a optical disc. Therefore, Sato also fails to show or suggest the feature, "a writer writes the content only once in a writable storage area of said memory cartridge where data has not been written, *only when said memory cartridge is appropriate for said content delivery system*," as required by the claimed invention. Accordingly, independent claim 29, as amended, is patentable over Sato, because Sato fails to show or suggest all of the limitations recited in the claim.

Thirdly, in the claimed invention, as the protection is necessarily made by hardware such as the shape of the cartridge, it is difficult for end users to produce a replica. This is particularly true in view of the costs required versus cases where the protection is made by software, such as data encoding. This protection based on hardware may advantageously serve as a deterrent against unauthorized copiers who attempt to make replicas because the replicating process involves a higher cost than the mere copying of software.

Further, none of the references, Heemskerk, Turpin, Kobayashi, Hsu, Okamura, Keller, Hensley, DiskJuggler User's Guide, Kato, Sushima, and Morimoto provides that which Sato lacks with respect to claims 1, 20, 21, 23, 29, 30, and 33. Thus, claims 1, 20, 21, 23, 29, 30, and 33 are patentable over Morimoto, Heemskerk, Turpin, Kobayashi, Hsu, Okamura, Keller, Hensley, DiskJuggler User's Guide, Kato, Sushima, and Morimoto.

In view of the above, independent claims 1, 20, 21, 23, 29, 30, and 33, as amended, are patentable over Sato, Heemskerk, Turpin, Kobayashi, Hsu, Okamura, Keller, Hensley, DiskJuggler User's Guide, Kato, Sushima, and Morimoto, because, whether considered separately

or in combination, the references fail to teach or suggest all of the limitations of the claims. By virtue of their dependence, claims 2-18, 22, 26-27, 32, and 34-36 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

**New claims**

New claims 37 and 38 indirectly depend from claims 21 and 23, respectively. As discussed above, amended claims 21 and 23 are patentable. Accordingly, the new claims 37 and 38 are patentable for at least the same reasons as set forth above. New claims 39, 40, and 42-48 include substantially similar limitations to claim 29. As discussed above, amended claim 29 is patentable over the prior art of record. Accordingly, the new claims 39, 40, and 42-48 are patentable for at least the same reasons as set forth above. New claim 41 includes substantially similar limitations to claim 23. As discussed above, amended claim 23 is patentable. Accordingly, the new claim 41 is patentable for at least the same reasons as set forth above. Thus, entry and favorable consideration of the new claims is respectfully requested.

**Conclusion**

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 04995/240001).

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Respectfully submitted,

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